
PARKS AND ENVIRONMENT WORKING GROUP RECOMMENDATIONS

May 10, 2021

Table of Contents

- I. Introduction
 - A. Directive from Tourism Commission
 - B. Overview of Working Group Process and Recommendations
 - C. Overview Description of Proposed Projects, Activities and Programs to Benefit Parks and Environment Under Chapter 351
 - D. Overview Description of Proposed Projects, Activities and Programs to Benefit Parks and Environment Under Chapter 334
- Exhibit A - Hotel Occupancy Tax (HOT) Eligible Projects, Activities And Programs That Can Benefit Parks And Environment

I. Introduction

This document provides recommendations from the Parks and Environment Working Group to identify Hotel Occupancy Tax (HOT) eligible projects, activities, and programs that can benefit parks and environment in our community.

A. Directive from Tourism Commission

On February 20, 2020, the Tourism Commission appointed the Parks and Environment Working Group look into (1) Chapter 351 funding options for using hotel occupancy tax funds to benefit parks and/or environment, (2) Chapter 334 funding options for using hotel occupancy tax funds to benefit parks/environment, (3) park amenities to leverage tourism funding for park-specific projects, and (4) Palm Park HOT funding options.

The appointed members of the Parks and Environment Working Group include Commissioners Bunch, Cannatti, Fuentes, and Joslove, and also include community/stakeholder representatives Ladye Anne Wofford (Austin Parks Foundation), Clark Hancock (Save Barton Creek Association), Dan Eck (Hill Country Conservancy) Angela Richter (Save Barton Creek Association), Heath Riddles-Sanchez (Pease Park Conservancy), Adrienne Longenecker (Colorado River Alliance), Molly Alexander (Downtown Austin), Ted Siff, (Shoal Creek Conservancy), Heidi Anderson (The Trail Foundation), Chuck Smith (Pease Park Conservancy), Sarah Story (Umlauf Sculpture).

B. Overview of Working Group Process and Recommendations

Working virtually, the Working Group identified a list of funding categories under the state's hotel occupancy tax statute that could benefit our parks and environment. For each funding category, we identified the "statutory basis" for the expenditure, any geographic limitations under state law, whether "maintenance and operations" can be funded, the existence of any "statutory cap" under state law, any "real world examples" of such expenditures, and a summary of the position of the Texas Municipal League regarding HOT expenditures in each category. In addition, we included a description of proposed projects to illustrate how the expenditures might be implemented with HOT funds. The details of this analysis are attached at Exhibit A, and an overview of the identified projects, activities, and programs to benefit parks and environment are set forth below.

C. Overview Description of Proposed Projects, Activities and Programs to Benefit Parks and Environment Under Chapter 351

The Working Group identified the following project categories that can be funded with hotel occupancy taxes under Chapter 351 of the Texas Tax Code, subject to the details and limitations set forth in Exhibit A:

1. Tourism-Promoting Advertising, Solicitations, and Promotional Programs: HOT funds can be used for "advertising and conducting solicitations and promotional programs to attract tourists and convention delegates or registrants to the municipality or its vicinity."

Proposed projects in this category include:

- Funding for a promotional guide to area parks, such as an expanded version of SBCA's "Explorer's Guide to the Hill Country Oasis."

- Paying musicians to promote Austin tourism within Visit Austin’s convention and group business promotions.
- Additional “advertising” and “promotional programs” funding could be applied to parks or park projects that are featured in documentary, TV series, social media, or other tourism promotion efforts, to the extent such marketing is likely to have a direct impact on tourism and hotel activity within Austin. Examples of tourism promotional programs include documentary/film/tv/social media/videos on topics, such as "restoring the historic Victory Grill," "rehabilitating the historic Barton Springs Bathhouse," "Trail Builders of Austin," "rowing regattas and training at Lady Bird Lake," "environmental tourism along Colorado River, Hill Country, and Barton Creek," "community farms of Boggy Creek," etc.
- Promotional program funding could include research and development of content to include in an advertisement, solicitation, and/or promotional program. In addition to funding filmmakers and social media producers that feature Austin parks and environmental settings that would have a direct impact on tourism and hotel activity within Austin, “advertising” and “promotional programs” funding could be applied to the work or activities being filmed, such performers and musicians in such promotional projects, thereby employing the Austin creative community while also protecting our environment, improving our parks, etc.

2. Cultural Arts and Commercial Music: HOT funds can be used for the “the encouragement, promotion, improvement, and application of the arts, including instrumental and vocal music, dance, drama, folk art, creative writing, architecture, design and allied fields, painting, sculpture, photography, graphic and craft arts, motion pictures, radio, television, tape and sound recording, and other arts related to the presentation, performance, execution, and exhibition of these major art forms.”

The City has funded cultural arts projects for years at the full, 15% cap amount, and proposed projects in this category include park performances that encourage, promote, improve, and apply the arts, provided such expenditures also directly promote tourism and hotel activity.

3. Visitor Information Centers: HOT funds can be used for “the acquisition of sites for and the construction, improvement, enlarging, equipping, repairing, operation, and maintenance of ... visitor information centers.”

Proposed projects in this category include:

- Visitor information kiosks in parks.
- In addition, a Zilker Park Visitor Education/Welcome Center has been proposed by the Barton Springs Pool Master Plan, the Zilker Park Bathhouse Zone Feasibility Study, Visitor Impact Task Force Report, Mayor Adler’s “Downtown Puzzle” proposal, and the Tourism Commission’s recommendation to Council.
- Additional options include: Mary Gay Maxwell Education Center; Nature Center at Walter E. Long Park and Barrera Native Grass Preserve; Chisholm Trail Crossing of Colorado River (Guerrero Park); Affinity Trail projects such as but not limited to the Austin’s Lost Communities Trail, Music Legacy Trail, Cowboy Trail, Hidden Springs

Trail, and Mexican American Cultural Heritage Corridor; similar projects in all Council Districts.

4. Historic Restoration and Preservation Projects, Activities or Programs for Visiting Historic Sites: HOT funds can be used for the “historical restoration and preservation projects or activities or advertising and conducting solicitations and promotional programs to encourage tourists and convention delegates to visit preserved historic sites or museums.”

In recent years, the City has funded historic preservation projects for at the full, 15% cap amount, and proposed projects in this category include:

- HOT funding for historical restoration and preservation projects in our parks, such as Mary Gay Maxwell Education Center on the Mary Gay Maxwell Water Quality Protection Lands Tract. The Seaholm Waterfront Project could also qualify as an historical restoration and preservation project.
- HOT funding for historical restoration and preservation activities in our parks, such as historic education programming, talks, and/or tours on the topic of historic parks, such as Zilker Park, Pease Park, Festival Beach, etc.
- HOT funding for advertising to encourage tourists and convention delegates to visit preserved historic sites in our parks.
- HOT funding for conducting solicitations to encourage tourists and convention delegates to visit preserved historic sites in our parks.
- HOT funding for conducting promotional programs to encourage tourists and convention delegates to visit preserved historic sites in our parks.

5. Wayfinding Signage: HOT funds can be used for the “signage directing the public to sights and attractions that are visited frequently by hotel guests in the municipality.”

Proposed projects in this category include:

- Wayfinding signage in parks to guide visitors to park amenities, including the Butler Hike and Bike Trail, as well as larger metropolitan parks visited by tourists and hotel guests, such as Waller Creek, Palm Park, Shoal Creek, Pease Park, and Zilker Park.
- PARD Preserves need signage. So would trail signage at Barton Creek and other trails identified in the Urban Trail Plan to identify projects throughout the entire city, including the Red Line Trail, the Colorado River trail, and Garza Park signs.
- Access/routing signs to navigate to parks.

6. Transportation Systems for Tourists: Under Tax Code Sec. 351.110(a), HOT funds can be used for the “a transportation system to transport tourists from hotels in and near the municipality to ... tourist attractions in or near the municipality,” but such HOT funds are not authorized for a transportation system that serves the general public other than for a system that transports tourists as described by Tax Code Sec. 351.110(a).

Proposed projects in this category include a tourist transportation system (e.g., a shuttle, bus route, ferry, gondola, or other transportation system that does not primarily serve the general

public) for transporting tourists between hotels, commercial areas and tourist attractions (e.g., Zilker Park or Barton Springs). While the general public could use such a tourist transportation system, HOT tax funding would be limited to the extent that tourists use the tourist transportation system.

D. Overview Description of Proposed Projects, Activities and Programs to Benefit Parks and Environment Under Chapter 334

Chapter 334 of the Texas Local Government Code provides cities with limited authority for using a ballot referendum process to enact up to a 2 percent additional hotel occupancy tax to fund “venues” that are permitted under Chapter 334, and also describes the requirements of authorized “venue projects” for using the additional tax revenues. However, not all venue projects defined in Local Gov’t Code § 334.001 may be funded with hotel occupancy tax revenues due to “clawback” provisions which disallow certain “venue project” uses. In relevant part and discussed more fully below, Local Gov’t Code § 334.001 defines two types of “venue” projects that relate to parks and environmental projects, but both types of projects are completely or at least substantially disallowed by clawback provisions.

1. “Municipal Parks and Recreation System, Or Improvements Or Additions To A Parks And Recreation System,” But Not For “An Area or Facility That Is Part of a Municipal Parks and Recreation System”: Tax Code §334.001(1)(D) defines an authorized “venue” project to include “a municipal parks and recreation system, or improvements or additions to a parks and recreation system, or an area or facility that is part of a municipal parks and recreation system.” However, Tax Code §334.2515(2) is a “clawback” provision that disallows use of Venue Tax HOT funding for “an area or facility that is part of a municipal parks and recreation system as described by Section 334.001(4)(D).” As a result, there is an arguable basis to use Venue Tax HOT funding for “a municipal parks and recreation system, or improvements or additions to a parks and recreation system,” but not for “an area or facility that is part of a municipal parks and recreation system.”

The Working Group did not identify any specific proposed projects that met the requirement of being a “municipal parks and recreation system” or “improvements or additions to a parks and recreation system” that does not amount to “an area or facility that is part of a municipal parks and recreation system.” However, the Working Group acknowledges the observation from the Texas Municipal League that, even if a venue project under Chapter 334 is “clawed back” by Tax Code §334.2515(2), such a Chapter 334 venue project may instead be funded by the following revenues sources: as an additional motor vehicle rental tax, an additional sales and use tax (provided the municipality is not already at its maximum sales tax rate), a venue admissions tax, a parking tax applied to parking facilities located at the venue, or a facility use tax.

HOTEL OCCUPANCY TAX (HOT) ELIGIBLE PROJECTS, ACTIVITIES AND PROGRAMS THAT CAN BENEFIT PARKS AND ENVIRONMENT

Tourism-Promoting Advertising, Solicitations, and Promotional Programs

Statutory Basis: Tax Code Sec. 351.101(a)(3) (“(a) Revenue from the municipal hotel occupancy tax may be used only to promote tourism and the convention and hotel industry, and that use is limited to ... (3) **advertising and conducting solicitations and promotional programs** to attract tourists and convention delegates or registrants to the municipality or its vicinity”).

Geographic Limitation: City of Austin “municipality or its vicinity.”

Maintenance and Operation Funding: Operational funding is allowed under state law (e.g., funding of CVB staff who conduct marketing programs).

Statutory Cap: None.

Statutory Minimum: Because Austin has a population of more than 200,000 and it also collects more than \$2 million annually in hotel occupancy taxes, there is no current statutory minimum for expending hotel occupancy tax revenues for advertising and collecting solicitations to attract tourists and hotel guests to the municipality and its vicinity. See Tax Code §§ 351.103(a) and (b).

Real World Examples: Visit Austin expends HOT on tourism advertising, solicitations, and promotional programs, including paying musicians to promote Austin tourism within Visit Austin’s convention and group business promotions.

Proposed Project Description: Funding for a promotional guide to area parks, such as an expanded version of SBCA’s “Explorer’s Guide to the Hill Country Oasis.” Paying musicians to promote Austin tourism within Visit Austin’s convention and group business promotions.

Additional “advertising” and “promotional programs” funding could be applied to parks or park projects that are featured in documentary, tv series, social media, or other tourism promotion efforts, to the extent such marketing is likely to have a direct impact on tourism and hotel activity within Austin. Examples of tourism promotional programs include documentary/film/tv/social media/videos on topics, such as "restoring the historic Victory Grill," "rehabilitating the historic Barton Springs Bathhouse," "trailbuilders of Austin," "rowing regattas and training at Lady Bird Lake," "environmental tourism along Colorado River, Hill Country, and Barton Creek," "community farms of Boggy Creek," etc. Promotional program funding could include research and development of content to include in an advertisement/solicitation/promotional program. In addition to funding filmmakers and social media producers that feature Austin parks and environmental settings that would have a direct impact on tourism and hotel activity within Austin, “advertising” and “promotional programs” funding could be applied to the work or activities being filmed, such

performers and musicians in such promotional projects, thereby employing the Austin creative community while also protecting our environment, improving our parks, etc.

Texas Municipal League: Allowable use unless the subject matter is not likely to have a direct impact on tourism or hotel activity or if the funding is used to improperly avoid funding caps for historic/cultural arts projects. For example, HOT funds can be used for conducting a general tourism advertising campaign, solicitation, or promotional program that happens to, in part, include an arts facility or musician performance in the tourism marketing piece while the advertising campaign, solicitation, or promotional program is not designed to primarily promote the arts.

Cultural Arts and Commercial Music

Statutory Basis: Tax Code Sec. 351.101(a)(4) (“(a) Revenue from the municipal hotel occupancy tax may be used only to promote tourism and the convention and hotel industry, and that use is limited to ... (4) **the encouragement, promotion, improvement, and application of the arts, including instrumental and vocal music, dance, drama, folk art, creative writing, architecture, design and allied fields, painting, sculpture, photography, graphic and craft arts, motion pictures, radio, television, tape and sound recording, and other arts related to the presentation, performance, execution, and exhibition of these major art forms**”).

Geographic Limitation: None

Maintenance and Operation Funding: Operational funding is allowed under state law.

Statutory Cap: Not more than 15 percent of the hotel occupancy tax revenue collected by a municipality or the amount of tax received by the municipality at the rate of one percent of the cost of a room, whichever is greater, may be used to fund cultural arts projects. Tax Code Section 351.103 (c).

Real World Examples: The City has funded cultural arts projects for years at the full, 15% cap amount

Proposed Project Description: HOT funding for cultural art projects in our parks, including “the encouragement, promotion, improvement, and application of the arts,” such as park performances, provided such expenditures also directly promote tourism and hotel activity as provided by §§ 351.101(a) and (b).

Texas Municipal League: Allowable use. However, such expenditures must not result in spending local hotel tax in excess of the 15 percent cap on expenditures for the arts.

Visitor Information Centers

Statutory Basis: Tax Code Sec. 351.101(a)(1) (“(a) Revenue from the municipal hotel occupancy tax may be used only to promote tourism and the convention and hotel industry,

and that use is limited to ... (1) **the acquisition of sites for and the construction, improvement, enlarging, equipping, repairing, operation, and maintenance of ... visitor information centers...**). "Visitor information center" or "tourism information center" means a building or a portion of a building used to distribute or disseminate information to tourists. Tax Code Sec. 351.001(8).

Geographic Limitation: None

Maintenance and Operation Funding: Yes

Statutory Cap: None

Real World Examples: Visitor Centers are located in numerous Texas cities, including Austin, Dallas, El Paso, Fort Worth, Houston, etc.

Proposed Project Description: Visitor information kiosks in parks. In addition, a Zilker Park Visitor Education/Welcome Center has been proposed by the Barton Springs Pool Master Plan, the Zilker Park Bathhouse Zone Feasibility Study, Visitor Impact Task Force Report, Mayor Adler's "Downtown Puzzle" proposal, and the Tourism Commission's recommendation to Council. Additional options include: Mary Gay Maxwell Education Center; Nature Center at Walter E. Long Park and Barrera Native Grass Preserve; Chisholm Trail Crossing of Colorado River (Guerrero Park); Affinity Trail projects such as but not limited to the Austin's Lost Communities Trail, Music Legacy Trail, Cowboy Trail, Hidden Springs Trail, and Mexican American Cultural Heritage Corridor; similar projects in all Council Districts.

Texas Municipal League: Allowable use to the extent the expenditure at these facilities covers an expense directly related to constructing, improving, enlarging, equipping, repairing, operating, and maintaining visitor information centers which provide information to tourists (e.g., handing out tourist brochures, providing tourists information about area attractions, etc.). The facility could not use local hotel tax to cover a percentage of the operational or acquisition costs that would exceed the percentage of the facility usage that would be for visitor center purposes.

Historic Restoration and Preservation Projects, Activities or Advertising/Solicitation/Promotional Programs for Visiting Historic Sites

Statutory Basis: Tax Code Sec. 351.101(a)(5) ("(a) Revenue from the municipal hotel occupancy tax may be used only to promote tourism and the convention and hotel industry, and that use is limited to ... (5) **historical restoration and preservation projects or activities or advertising and conducting solicitations and promotional programs to encourage tourists and convention delegates to visit preserved historic sites or museums...**").

Geographic Limitation: The funded projects/activities must be located "(A) at or in the immediate vicinity of convention center facilities or visitor information centers; or (B)

located elsewhere in the municipality or its vicinity that would be frequented by tourists and convention delegates.”

Maintenance and Operation Funding: Operational funding is allowed under state law.

Statutory Cap: Not more than 15 percent of the hotel occupancy tax revenue may be used to fund historic preservation projects/activities. Tax Code Section 351.103 (c).

Real World Examples: In recent years, the City has funded historic preservation projects for at the full, 15% cap amount. Numerous park-related historic preservation projects have been funded under this category, including the Mayfield Park, Barton Springs Bathhouse, Zilker Park Clubhouse, the Oakwood Cemetery project, the Downs Field Grandstands restoration project, and the acquisition of the "Montopolis Negro School" property. HOT-funded historic restoration projects also include the historic Union Pacific Railroad Trestle bridge at W. 3rd & Shoal Creek and the 1920's Tudor Cottage at Pease Park.

Proposed Project Description:

HOT funding for historical restoration and preservation projects in our parks, such as Mary Gay Maxwell Education Center on the Mary Gay Maxwell Water Quality Protection Lands Tract. The Seaholm Waterfront Project could also qualify as an historical restoration and preservation project.

HOT funding for historical restoration and preservation activities in our parks, such as historic education programming, talks, and/or tours on the topic of historic parks, such as Zilker Park, Pease Park, Festival Beach, etc.

HOT funding for advertising to encourage tourists and convention delegates to visit preserved historic sites in our parks.

HOT funding for conducting solicitations to encourage tourists and convention delegates to visit preserved historic sites in our parks.

HOT funding for conducting promotional programs to encourage tourists and convention delegates to visit preserved historic sites in our parks.

Texas Municipal League: Allowable use to the extent such expenditures would directly promote tourism and hotel activity and do not exceed the statutory cap of 15% for historical restoration and preservation purposes.

Wayfinding Signage

Statutory Basis: Tax Code Sec. 351.101(a)(9) (“(a) Revenue from the municipal hotel occupancy tax may be used only to promote tourism and the convention and hotel industry, and that use is limited to ... (9) **signage directing the public to sights and attractions** that are visited frequently by hotel guests in the municipality.”).

Geographic Limitation: None

Maintenance and Operation Funding: No

Statutory Cap: None

Real World Examples: None identified.

Proposed Project Description: Wayfinding signage in parks to guide visitors to park amenities, including the Butler Hike and Bike Trail, as well as larger metropolitan parks visited by tourists and hotel guests, such as Waller Creek, Palm Park, Shoal Creek, Pease Park, and Zilker Park. PARD Preserves need signage. So would trail signage at Barton Creek and other trails identified in the Urban Trail Plan to identify projects throughout the entire city, including the Red Line Trail, the Colorado River trail, and Garza Park signs. Access/routing signs to navigate to parks.

Texas Municipal League: Allowable use unless used to improperly avoid funding caps for historic/cultural arts projects.

Transportation Systems for Tourists

Statutory Basis: Tax Code Sec. 351.110(a) (“a municipality may use the revenue derived from the tax imposed under this chapter for **a transportation system to transport tourists from hotels in and near the municipality to:** (1) the commercial center of the municipality; (2) a convention center in the municipality; (3) other hotels in or near the municipality; and (4) **tourist attractions in or near the municipality.**”). However, Sec. 351.110 “does not authorize the use of revenue derived from the tax imposed under this chapter for a transportation system that serves the general public other than for a system that transports tourists as described by Subsection (a).”

Geographic Limitation: From hotels to commercial center, convention center, other hotels, and tourist attractions in/near the municipality.

Maintenance and Operation Funding: No

Statutory Cap: None

Real World Examples: No real world examples identified.

Proposed Project Description: HOT taxes could be used for a tourist transportation system (e.g., a shuttle, bus route, ferry, gondola, or other transportation system that does not primarily serve the general public) for transporting tourists between hotels, commercial areas and tourist attractions (e.g., Zilker Park or Barton Springs). While the general public could use such a tourist transportation system, HOT tax funding would be limited to the extent that tourists use the tourist transportation system.

Texas Municipal League: Apart from funding direct tourist transportation (e.g., shuttle services or ride shares) from hotels to commercial/convention center, other hotels, and tourist attractions, not an allowed use. A trail or a bikeway would not in the opinion of TML or Texas City Attorneys likely qualify as a “transportation system” that “transports” tourists from hotels.

Chapter 334 Venue Tax HOT Funding Opportunities

Chapter 334 of the Texas Local Government Code provides cities with limited authority for using a ballot referendum process to enact up to a 2 percent additional hotel occupancy tax to fund “venues” that are permitted under Chapter 334, and also describes the requirements of authorized “venue projects” for using the additional tax revenues. **However, not all venue projects defined in Local Gov’t Code § 334.001 may be funded with hotel occupancy tax revenues due to “clawback” provisions which disallow certain “venue project” uses.** In relevant part and discussed more fully below, Local Gov’t Code § 334.001 defines two types of “venue” projects that relate to parks and environmental projects, but both types of projects are completely or at least substantially disallowed by clawback provisions.

Venue Tax HOT Funding for “A Municipal Parks and Recreation System, Or Improvements Or Additions To A Parks And Recreation System,” But Not For “An Area or Facility That Is Part of a Municipal Parks and Recreation System”

Statutory Basis: Tax Code §334.001(1)(D) defines an authorized “venue” project to include “**a municipal parks and recreation system, or improvements or additions to a parks and recreation system, or an area or facility that is part of a municipal parks and recreation system.**” However and as indicated with the red font, Tax Code §334.2515(2) is a “clawback” provision that **disallows** use of Venue Tax HOT funding for “**an area or facility that is part of a municipal parks and recreation system** as described by Section 334.001(4)(D).” As a result, there is an *arguable* basis to use Venue Tax HOT funding for “**a municipal parks and recreation system, or improvements or additions to a parks and recreation system,**” but not for “**an area or facility that is part of a municipal parks and recreation system**”.

Geographic Limitation: No

Maintenance and Operation Funding: No

Statutory Cap: None.

Real World Examples: None.

Proposed Project Description: Any “municipal parks and recreation system” or “improvements or additions to a parks and recreation system” that does not amount to “an area or facility that is part of a municipal parks and recreation system.”

Texas Municipal League: The intention behind the “clawback” provision of “Tax Code §334.2515(1) was to disallow Venue Tax HOT funding for any project described in Section 334.001(4)(D), even though the statutory exclusion is expressly worded to cover only “an area or facility that is part of a municipal parks and recreation system as described by Section [334.001](#)(4)(D).”

However, TML notes that, even if a venue project under Chapter 334 is “clawed back” by Tax Code §334.2515(2), such a Chapter 334 venue project may instead be funded by the following revenues sources: as an additional motor vehicle rental tax, an additional sales and use tax (provided the municipality is not already at its maximum sales tax rate), a venue admissions tax, a parking tax applied to parking facilities located at the venue, or a facility use tax.

No Venue Tax HOT Funding for Watershed Protection and Preservation Project; A Recharge, Recharge Area, Or Recharge Feature Protection Project; A Conservation Easement; Or An Open-Space Preservation Program Intended To Protect Water

Statutory Basis: Tax Code §334.001(1)(F) defines an authorized “venue” project to include “a watershed protection and preservation project; a recharge, recharge area, or recharge feature protection project; a conservation easement; or an open-space preservation program intended to protect water.” However, Tax Code §334.2517 is a “clawback” provision that **disallows** use of Venue Tax HOT funding for “venue project described by Section 334.001(4)(F).” As a result, Venue Tax HOT funding **cannot** be used for “a watershed protection and preservation project; a recharge, recharge area, or recharge feature protection project; a conservation easement; or an open-space preservation program intended to protect water”.

Geographic Limitation: No

Maintenance and Operation Funding: No

Statutory Cap: None.

Real World Examples: None.

Proposed Project Description: None.

Texas Municipal League: The express provisions of the “clawback” provision of “Tax Code §334.2517 disallow using Venue Tax HOT funding for any project described in Section 334.001(4)(F), thereby eliminating this category of Venue Tax HOT funding for a watershed protection and preservation project; a recharge, recharge area, or recharge feature protection project; a conservation easement; or an open-space preservation program intended to protect water.

However, TML notes that, even if a venue project under Chapter 334 is “clawed back” by Tax Code §334.2517, such a Chapter 334 venue project may instead be funded by the

following revenues sources: as an additional motor vehicle rental tax, an additional sales and use tax (provided the municipality is not already at its maximum sales tax rate), a venue admissions tax, a parking tax applied to parking facilities located at the venue, or a facility use tax.